

AN ACT

relating to the creation and storage of DNA records for a person arrested for certain felony offenses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. This Act may be cited as the Krystal Jean Baker Act.

SECTION 2. Article 42A.352, Code of Criminal Procedure, is amended to read as follows:

Art. 42A.352. DNA SAMPLE. A judge granting community supervision to a defendant convicted of a felony shall require as a condition of community supervision that the defendant provide a DNA sample under Subchapter G, Chapter 411, Government Code, for the purpose of creating a DNA record of the defendant, unless the defendant has already submitted the required sample under Section 411.1471, Government Code, or other ~~[state]~~ law.

SECTION 3. Article 102.020(a), Code of Criminal Procedure, is amended to read as follows:

(a) A person shall pay as a cost of court:

(1) \$250 on conviction of an offense listed in Section 411.1471(a)(1), Government Code;

(2) \$50 on conviction of an offense described by Section 411.1471(a)(2) [~~411.1471(a)(3)~~], Government Code; or

(3) \$34 on placement of the person on community supervision, including deferred adjudication community

1 supervision, if the person is required to submit a DNA sample under  
2 Article [42A.352](#).

3 SECTION 4. Subchapter G, Chapter [411](#), Government Code, is  
4 amended by adding Section 411.1425 to read as follows:

5 Sec. 411.1425. GRANT FUNDS. The director shall apply for  
6 any available federal grant funds applicable to the creation and  
7 storage of DNA records of persons arrested for certain offenses.

8 SECTION 5. The heading to Section [411.1471](#), Government  
9 Code, is amended to read as follows:

10 Sec. 411.1471. DNA RECORDS OF PERSONS ARRESTED FOR [~~7~~  
11 ~~CHARGED WITH,~~] OR CONVICTED OF CERTAIN OFFENSES.

12 SECTION 6. Section [411.1471](#), Government Code, is amended by  
13 amending Subsections (a), (b), and (e) and adding Subsection (b-1)  
14 to read as follows:

15 (a) This section applies to a defendant who is:

16 (1) arrested [~~indicted or waives indictment~~] for a  
17 felony prohibited [~~or punishable~~] under any of the following Penal  
18 Code sections:

19 (A) Section [19.02](#);

20 (B) Section [19.03](#);

21 (C) Section [20.03](#);

22 (D) Section [20.04](#) [~~20.04(a)(4)~~];

23 (E) Section [20.05](#);

24 (F) Section [20.06](#);

25 (G) Section [20A.02](#);

26 (H) Section [20A.03](#);

27 (I) Section [21.02](#);

- 1            (J) [~~(B)~~] Section 21.11;
- 2            (K) Section 22.01;
- 3            (L) [~~(C)~~] Section 22.011;
- 4            (M) Section 22.02;
- 5            (N) [~~(D)~~] Section 22.021;
- 6            (O) [~~(E)~~] Section 25.02;
- 7            (P) Section 29.02;
- 8            (Q) Section 29.03;
- 9            (R) [~~(F)~~] Section 30.02 [~~30.02(d)~~];
- 10           (S) Section 31.03;
- 11           (T) Section 43.03;
- 12           (U) Section 43.04;
- 13           (V) [~~(G)~~] Section 43.05;
- 14           (W) [~~(H)~~] Section 43.25; or
- 15           (X) [~~(I)~~] Section 43.26; or
- 16           [~~(J)~~ Section 21.02; or
- 17           [~~(K)~~ Section 20A.03;]

18            (2) [~~arrested for a felony described by Subdivision~~  
19 ~~(1) after having been previously convicted of or placed on deferred~~  
20 ~~adjudication for an offense described by Subdivision (1) or an~~  
21 ~~offense punishable under Section 30.02(c)(2), Penal Code; or~~

22            [~~(3)~~] convicted of an offense:

23            (A) under Title 5, Penal Code, other than an  
24 offense described by Subdivision (1), that is punishable as a Class  
25 A misdemeanor or any higher category of offense, except for an  
26 offense punishable as a Class A misdemeanor under Section 20.02,  
27 22.01, or 22.05, Penal Code; or

1 (B) under Section 21.08, 25.04, 43.02(b),  
2 [~~43.03~~], or 43.24, Penal Code.

3 (b) [~~After a defendant described by Subsection (a)(1) is~~  
4 ~~indicted or waives indictment, the court in which the case is~~  
5 ~~pending shall require the defendant to provide to a law enforcement~~  
6 ~~agency one or more specimens for the purpose of creating a DNA~~  
7 ~~record.~~] A law enforcement agency arresting a defendant described  
8 by Subsection (a)(1) [~~(a)(2)~~], immediately after fingerprinting  
9 the defendant and at the same location as the fingerprinting  
10 occurs, shall require the defendant to provide one or more  
11 specimens for the purpose of creating a DNA record.

12 (b-1) After a defendant described by Subsection (a)(2)  
13 [~~(a)(3)~~] is convicted, the court shall require the defendant to  
14 provide to a law enforcement agency one or more specimens for the  
15 purpose of creating a DNA record.

16 (e) Notwithstanding Subsection (d), on acquittal of a  
17 defendant described by Subsection (a)(1) [~~or (2)~~] or dismissal of  
18 the case against the defendant, or after an individual has been  
19 granted relief in accordance with a writ of habeas corpus that is  
20 based on a court finding or determination that the person is  
21 actually innocent of a crime for which the person was sentenced,  
22 [~~the court shall order~~] the law enforcement agency taking the  
23 specimen shall [~~to~~] immediately destroy the record of the  
24 collection of the specimen, and [~~require~~] the department shall [~~to~~]  
25 destroy the specimen and the record of its receipt. As soon as  
26 practicable after the acquittal of the defendant or the dismissal  
27 of the case, the court shall provide notice of the acquittal or

1 dismissal to the applicable law enforcement agency and the  
2 department.

3 SECTION 7. Section 411.1471(c), Government Code, is  
4 repealed.

5 SECTION 8. Section 411.1471, Government Code, as amended by  
6 this Act, applies only to an offense committed on or after the  
7 effective date of this Act. An offense committed before the  
8 effective date of this Act is governed by the law in effect on the  
9 date the offense was committed, and the former law is continued in  
10 effect for that purpose. For purposes of this section, an offense  
11 was committed before the effective date of this Act if any element  
12 of the offense occurred before that date.

13 SECTION 9. The Department of Public Safety of the State of  
14 Texas is required to implement a provision of this Act only if the  
15 legislature appropriates money specifically for that purpose. If  
16 the legislature does not appropriate money specifically for that  
17 purpose, the Department of Public Safety of the State of Texas may,  
18 but is not required to, implement a provision of this Act using  
19 other appropriations available for that purpose.

20 SECTION 10. This Act takes effect September 1, 2019.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 1399 was passed by the House on April 24, 2019, by the following vote: Yeas 77, Nays 68, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1399 on May 24, 2019, by the following vote: Yeas 99, Nays 40, 2 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 1399 was passed by the Senate, with amendments, on May 22, 2019, by the following vote: Yeas 26, Nays 5.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor